

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WILLIAM LOFTUS

Plaintiff,

19 cv 7984 (JGK)

- against -

SIGNPOST, INC.

Defendant.

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 10/19/2020

MEMORANDUM OPINION AND  
ORDER

JOHN G. KOELTL, District Judge:

The plaintiff brings this putative class action against Signpost Inc., alleging violations of the Telephone Consumer Protection Act of 1991 ("TCPA"), 47 U.S.C. §227 et seq. The defendant, Signpost Inc., moves to stay this action pending the Supreme Court's decision in Facebook Inc. v. Duguid, No. 19-511, which potentially will answer the question of what type of equipment qualifies as an automatic telephone dialing system ("ATDS"). The answer to that question is pivotal in this case and may shape the progress of discovery and the ultimate outcome in this case. In a previous decision, this Court stayed this case pending the decision of another Supreme Court case, Barr v. Am. Ass'n of Political Consultants, No. 19-631, 140 S. Ct. 812. See Loftus v. SignPost Inc., No. 19-cv-7984, 2020 WL 2848231, at \*1 (S.D.N.Y. June 2, 2020), Dkt. 41. The Court applied the five factors set out by the court in Kappel v. Comfort, 914 F. Supp.

1056, 1058 (S.D.N.Y. 1996), and stayed the action. Those same factors support a stay of this action pending a decision by the Supreme Court in the Facebook case.

A decision in the Facebook case may substantially resolve the present case, easing the burden of discovery on the defendant and saving judicial resources. The plaintiff will not be harmed by the stay because the defendant has attested that it is aware of its obligations and has instituted a litigation hold to preserve documents that may be relevant to the litigation. The stay is for a relatively brief period of time because the Supreme Court will likely decide the Facebook case at some point in the current Term. The balance of the relevant factors weighs decidedly in favor of a stay. The defendant points out without contradiction that all of the other courts that have faced the question of whether to stay litigations pending a decision in the Facebook case have stayed similar cases.

#### **CONCLUSION**

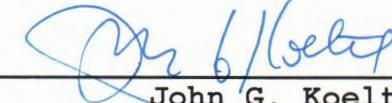
The Court has considered all of the arguments raised by the parties. To the extent not specifically addressed, the arguments are either moot or without merit. The defendant's motion to stay this action pending a decision by the Supreme Court in the Facebook case is **granted**. The parties should inform the Court promptly after the Supreme Court has decided

the Facebook case and provide the Court with letter briefs on the effect of that decision on this case.

The Clerk is directed to close Docket No. 45.

**SO ORDERED.**

Dated:      New York, New York  
October 19, 2020

  
John G. Koeltl  
United States District Judge